

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

Kevin Ecker,

Case No. 5:19 CV 1126

Plaintiff,

ORDER ADOPTING
REPORT & RECOMMENDATION

-vs-

Warden Chae Harris,

JUDGE JACK ZOUHARY

Defendant.

Petitioner Kevin Ecker seeks a Writ of Habeas Corpus under 28 U.S.C. § 2254 (Doc. 1). Magistrate Judge Carmen E. Henderson issued a Report and Recommendation (“R&R”) (Doc. 11), concluding the Petition should be dismissed. Having reviewed the R&R and Objections *de novo*, this Court adopts the R&R in its entirety. *See Hill v. Duriron Co.*, 656 F.2d 1208 (6th Cir. 1981); 28 U.S.C. § 636(b)(1).

Ecker makes no objection to the procedural history set forth in the R&R (*see* Doc. 11). In short, Ecker was indicted in state court on seven drug offenses arising out of a search warrant executed in March 2015 (*id.* at 2–3). The search stemmed from an investigation into an overdose death for which Ecker was believed to be responsible (*id.* at 2). Four months later, a supplemental indictment charged Ecker with involuntary manslaughter and three additional drug charges (*id.*). In 2016, while Ecker was out on bail, a search of his apartment resulted in six new drug charges (*id.* at 3). Ecker was then found guilty at trial of fourteen charges, including involuntary manslaughter (Doc. 8-1 at 204–5). He was sentenced to twenty-one years in prison (*id.*). After unsuccessfully appealing his conviction in the Ohio courts, Ecker filed this Petition (*id.* at 4–6). The R&R

thoroughly addresses Ecker's four grounds for relief, outlining why each is defaulted, meritless, or noncognizable (*id.* at 10–21).

Although this Court reviews *de novo* any portions of an R&R to which a party timely objects under 28 U.S.C. § 636(b)(1), failure to timely object waives district and appellate court review of the R&R. *See Miller v. Currie*, 50 F.3d 373, 380 (6th Cir. 1995); *United States v. Walters*, 638 F.2d 947, 950 (6th Cir. 1981). The R&R notified Ecker that failure to object would result in waiver (Doc. 11 at 22). *See Walters*, 638 F.2d at 950. Ecker has not objected, and the deadline for objections has passed.

This Court adopts the R&R (Doc. 11) in its entirety. The Petition (Doc. 1) is dismissed. Because Ecker has not made a substantial showing that he was denied a constitutional right, there is no basis upon which to issue a certificate of appealability. *See* 28 U.S.C. § 2253(c)(2). Further, an appeal from this Order could not be taken in good faith. *See* 28 U.S.C. § 1915(a)(3).

IT IS SO ORDERED.

s/ Jack Zouhary
JACK ZOUHARY
U. S. DISTRICT JUDGE

March 4, 2022